

44th Annual Report

MOTOR CARRIER COMMISSION

PROVINCE OF BRITISH COLUMBIA



BC

100

84- 4193

10

100

100

+

44th Annual Report
Covering the Licence-year Ended
February 29, 1984

Annual Report of the
**Motor Carrier
Commission**

Pursuant to Section 34
of the Motor Carrier Act



Queen's Printer for British Columbia©
Victoria, 1984



VANCOUVER, BRITISH COLUMBIA

*To His Honour the Lieutenant Governor in Council
of the Province of British Columbia*

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-fourth Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 29, 1984.

MOTOR CARRIER COMMISSION

GERARD M. MORRIS, *Acting Chairman*

IAN W. CRAIG, *Commissioner*



REPORT OF THE MOTOR CARRIER COMMISSION, 1983/84

THE COMMISSION

The present members of the Motor Carrier Commission are Gerard M. Morris, who is acting in place of the Chairman, and Commissioner Ian W. Craig.

During the licence year ending February 29, 1984, Judge G. Ross Sutherland, who was appointed to the Commission and designated Chairman effective June 16, 1976, retired from the Commission, at his request, to return to the Bench. The appointment of Albert W. Basile as a member of the Motor Carrier Commission was rescinded, at his request, by Order in Council dated February 17, 1984.

Gerard M. Morris, who has been a member of the Commission since January 1, 1977, and who has served as Deputy Chairman from April 9, 1981, was formally appointed by Order in Council dated February 17, 1984, to act in place of the Chairman.

Ian W. Craig was appointed as a Commissioner of the Motor Carrier Commission effective February 1, 1984, by Order in Council dated February 17, 1984.

GENERAL

The transportation by motor vehicle of goods or persons for compensation is regulated in this province by the Motor Carrier Commission, assisted by its operational arm, the Motor Carrier Branch.

It is the statutory duty of the Commission to regulate motor carriers with the object of promoting adequate and efficient service and reasonable and just charges therefor, and of promoting safety on the public highways and fostering sound economic conditions in the transportation business of the province.

The Commission may grant or refuse an application for licence authority to transport goods or persons for compensation. Such authority is granted or refused after the application is investigated, and the Commission has carefully considered all of the relevant factors, including the evidence of public need for the proposed operation in the light of similar services already being provided by duly licensed motor carriers.

The authority of the Commission is derived from a provincial statute, the *Motor Carrier Act*, and a federal statute, the *Motor Vehicle Transport Act (Canada)*, under the delegated authority from the Government of Canada.

APPLICATIONS

There were 2,609 applications filed during the period March 1, 1983 to February 29, 1984. Of that number, 1,708 were applications for new authority, alterations to existing authority, or transfers of authority, which generally require an investigation and report from the Motor Carrier Branch and a decision by the Motor Carrier Commission. The remaining 901 were applications for additional vehicle licences only, not involving a change to the operating authority held by the applicant.

HEARINGS

The Commission conducted a total of 78 hearings during an extremely busy year, including 24 public hearings to consider applications for licence authority, either new or revised, 21 hearings at which licensed carriers were required to Show Cause why their licences should not be cancelled, 28 reviews at which previous decisions were reconsidered, and 5 miscellaneous hearings.

Hearings were held on location in various parts of the province, including Burnaby, Williams Lake, Victoria, Quesnel, Prince Rupert, Powell River, Prince George, Campbell River and Grand Forks, B.C. In addition the Commission, for the first time, participated in joint public hearings of applications with other provinces, one in May, 1983, in Fairmont Hot Springs with the Alberta Motor Transport Board, and another, in June, 1983, in Toronto, Ontario, with the equivalent regulatory agencies from the other three western provinces and Ontario.

Some of the more significant orders, decisions and findings of the Commission are attached hereto as Appendix B of this report.

REVENUE

A statement of revenue from licence and permit fees, as well as from miscellaneous services for the year under review, indicated a total income of \$1,205,672.68, a drop of \$10,978.38 from the amount generated in the previous year.

Statistics on revenue, the number of permits issued, and a comparison of licences issued are contained in Appendix A attached hereto.

INSURANCE

All motor vehicles operated in the province are obliged by general vehicle-licensing laws to be insured for public liability and property damage. In addition, all motor carriers licensed under the *Motor Carrier Act* are required to have adequate cargo insurance. Those carriers handling C.O.D. shipments must take out and maintain fidelity bond coverage with respect to the remittance of C.O.D. trust funds. Failure on the part of a carrier to maintain the required insurance results in an automatic licence suspension and may lead to cancellation of licence authority unless satisfactory proof of coverage is filed with the Motor Carrier Branch.

MOTOR CARRIER COMMISSION FIELD OFFICES

The Motor Carrier Commission continues to maintain field offices in eight locations throughout the province, including Burnaby, which serves the Lower Mainland, Victoria, Nanaimo, Kelowna, Kamloops, Cranbrook, Prince George and Dawson Creek.

Each office is staffed by trained inspectors of the Motor Carrier Branch, who carry out investigations of applications and complaints lodged by shippers, the general public, and motor carriers; advise and assist applicants in preparing applications; provide information to the general public and/or carriers; and work in cooperation with various other agencies, including the Royal Canadian Mounted Police, other police forces, and the Weigh Scale Branch of the Ministry of Transportation and Highways, to enforce the provisions of the *Motor Carrier Act* (B.C.), and the *Motor Vehicle Transport Act* (Canada).

TARIFF AND TIME SCHEDULES

Regulations of the *Motor Carrier Act* require licensed motor carriers to file current rate schedules (tariffs) with the Commission, and to adhere to those schedules once they have been approved for filing. In addition, those licensed carriers who operate on time schedules must file copies with the Commission indicating the times of arrival and departure from the various termini on their routes. Again, in this case, once schedules are approved for filing, they may not be varied without first obtaining the consent of the Commission.

The table following sets out the number of rate and time schedule applications filed during the licence year 1983/84:

The Number of Applications Filed During Licence-years Ending in the Month of February of Each Year Referred to

	1980	1981	1982	1983	1984
Rate	419	521	554	444	336
Time	15	20	19	21	21

APPENDIX "A"

NUMBER OF LICENCES—ANNUAL COMPARISONS

The following table, by years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1980/81	1981/82	1982/83	1983/84
Passenger (buses)	2,333	2,206	2,221	2,246
Passenger (taxis)	2,475	2,348	2,363	2,388
Public freight	24,329	23,522	25,289	25,340
Limited freight	2,674	2,547	2,562	2,589
Totals	31,811	30,623	32,435	32,561

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1983/84

	\$
Licence fees	1,121,072.53
Temporary permits	21,633.70
Miscellaneous	62,966.45
	<u>1,205,672.68</u>

REVENUE—ANNUAL COMPARISONS

The following is a comparative table by years of gross revenue:

Kind of Licence	1980/81	1981/82	1982/83	1983/84
	\$	\$	\$	\$
Passenger (buses)	108,864.50	128,496.65	138,096.61	134,563.61
Passenger (taxis)	87,870.00	108,502.15	118,101.11	114,563.62
Public and limited freight	812,006.55	826,603.47	884,239.47	871,945.30
Permits	33,187.71	57,819.86	19,459.37	21,633.70
Miscellaneous ¹	44,137.00	67,769.15	56,754.50	62,966.45
Totals	1,086,065.76	1,189,191.28	1,216,651.06	1,205,672.68

¹ Includes fees for transfers, alterations of licences, and for copies of conditions of licences and transcripts.

MOTOR CARRIER ACT

TEMPORARY PERMITS

In order to provide flexibility, Part 10 of the *Motor Carrier Act Regulations* provides for the issuing of temporary permits in lieu of or as an adjunct to carriers' licences.

The following is a summary of the number of temporary permits issued during the year 1983/84:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	6,079
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of licence, etc.)	22,892
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	604
Total	29,575

APPENDIX "B"

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

27-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application by Neu-Way Distributing Inc., Published as No. 438/82.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 15th day of March 1983.

ORDER

The application of Neu-Way Distributing Inc., published as No. 438/82, came on for hearing before the Motor Carrier Commission on Wednesday, March 9, 1983.

The applicant was represented by Counsel Mr. Paul Sabatino, and Mr. Michael Ross, articled student; and the qualified objectors: Commercial Truck Co. Ltd., by Mr. R. Bligh; and Shadow Lines operating British Pacific Transport Ltd., Mountain Pacific Transport Ltd. and Leggott Transport Ltd., by Mr. R. Reid.

Mr. John Marshall of Arrow Transportation Systems Inc. applied to have his company added as an objector, but was, after the objection of Mr. Sabatino, disqualified for not having complied with the requirements of the *Regulations Respecting Motor Carriers*.

Reimer Express Lines Ltd., a qualified objector, by letter dated February 23, 1983 (filed as part of Exhibit No. 3), informed the Commission that it would be unable to be represented at the hearing. It also sought an adjournment of the hearing, which the Commission considered and refused.

The Commission has taken note of the fact the following companies all filed formal letters of objection to the application:

- (a) Commercial Truck Co. Ltd.;
- (b) Canadian Freightways Ltd.;
- (c) Reimer Express Lines Ltd.;
- (d) Shadow Lines;
- (e) Mountain Pacific Transport Ltd.;
- (f) Johnston Terminals Ltd., Public Freightways Ltd., Public Freightways (Warehouse) Ltd., T & H Cariboo Transport (1958) Ltd., and West-Trade Transport Ltd.;
- (g) Alltrans Express, Division of TNT Canada Inc., and
- (h) Fernie Cartage Ltd.

Reimer Express Lines Ltd. advised the Commission by letter that it would be unable to attend the hearing, and Fernie Cartage Ltd., by letter dated August 17, 1982, withdrew its objection. Of the remaining objectors, only Commercial Truck Co. Ltd. and Shadow Lines and Mountain Pacific Transport Ltd. followed through on their objections by appearing at the hearing. A third carrier, Arrow Transportation Systems Inc., did attend the hearing but had not, formally by letter or statement, objected to the application prior to the hearing.

The applicant called three witnesses: Richard James Drinkwater and Kathryn Sue Newsome, representatives respectively of B.C. Forwarding Co. Ltd. and Fresno Pallet Inc.; and Edward James Waybourne, Jr., comptroller for the applicant. The two shipper witnesses testified that the applicant has been giving their companies excellent service. Mr. Drinkwater gave evidence under cross-examination that even if the Lieutenant-Governor in Council grants B.C. Forwarding Co. Ltd.'s sister company, Maple Leaf Express Ltd., Conditions of Licence, B.C. Forwarding Co. Ltd. will continue to use the applicant to provide corridor service through British Columbia from the P.C./U.S.A. border to the B.C./Alberta border. Mrs. Newsome testified that Neu-Way Distributing Inc. gives her company excellent service, albeit under lease agreement; she agreed that the applicant is viewed by Fresno Pallet Inc. as an in-house carrier.

The objectors, Commercial Truck Co. Ltd. and Shadow Lines, did not call or give any evidence; they both, however, argued that the applicant is an unfit carrier, because of its continued operations without benefit of appropriate operating authorities. The objectors also argued that there is no public need for the services sought; and that they have the necessary equipment sitting idle, which is available to serve both B.C. Forwarding Co. Ltd. and Fresno Pallet Inc. These objectors did not, however, argue or assert that they have the necessary Conditions of Licence to serve these two shippers in the manner applied for by Neu-Way Distributing Inc.

Counsel for the applicant argued, *inter alia*, that there was absolutely no evidence given at the hearing to show that the applicant was or had been operating without appropriate Conditions of Licence; and he argued that the applicant was a fit, willing and able carrier. He asserted that the applicant solicited the contracts with B.C. Forwarding Co. Ltd. and Fresno Pallet Inc., and had demonstrated to these shippers that it warrants their support.

The Commission, after hearing and receiving all of the evidence, representations and arguments, concluded that the application for alteration of licence by Neu-Way Distributing Inc., be granted.

The Commission therefore orders that the Conditions of Licence of Neu-Way Distributing Inc. be altered by having added thereto as Clauses 13 and 14 the following:

Clause 13:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General freight (charter trips).	B.C. Forwarding Co. Ltd.	From the B.C./U.S. border to the B.C./Alberta border, corridor service only.

Clause 14:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
Lumber and lumber products (charter trips).	Fresno Pallet Inc.	From Licence Districts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17 and Vancouver Island delivered to the B.C./U.S. border and return with unsatisfactory goods.

and further that the restriction be amended by changing the second restriction from:

"Re: Clauses #11b and 12b. Freight shall neither be picked up nor delivered in British Columbia," to

"Re: Clauses #11b, 12b and 13. Freight shall neither be picked up nor delivered in British Columbia."

It is further ordered that all security deposits of \$50 filed by interested parties in this matter be refunded.

By the Commission:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

40-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Competing Applications for Motor Carrier Licence Authority of (A) Robert Charles Henry Roney, Published as No. 886/82; and (B) Alan Bond D/B/A Bee-Line Taxi, Published as No. 1294/82.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 18th day of April 1983.

ORDER

The application of Robert Charles Henry Roney (hereinafter referred to as "Roney"), published as No. 886/82, and Alan Bond d/b/a Bee-Line Taxi (hereinafter referred to as "Bond"), published as No. 1294/82, came on for hearing before the Motor Carrier Commission on Monday, March 28, 1983, in Campbell River, B.C.

Both applicants were competing for licence authority to provide a taxicab service in the Campbell River area, with Roney seeking five new limited passenger vehicle licences, and Bond applying for the transfer/replacement to him of nine limited passenger vehicle licences from Frank's Taxi (1969) Ltd., which was having serious financial difficulties.

At the hearing, Roney was represented by Counsel, Mr. R. W. Macdonald, Bond by Counsel, Mr. M. C. A. Clair, and a qualified objector, Atwater Cabs (1978) Ltd., which presently serves the area, was represented by Counsel, Mr. W. G. Muir.

At the hearing, Counsel for Roney called ten witnesses, who spoke in support of the application and provided their views as to the quality and adequacy of the taxi service presently provided to the community. Generally there was a common theme in this testimony of the need for more competition to improve service to the community. In addition, four petitions and a substantial number of letters in support were filed as exhibits by Counsel for the applicant.

Counsel for Bond, whose company has been operating for some time under temporary permits, called fourteen witnesses, who testified generally that the present service in Campbell River is reasonably adequate. Some additional support material in the form of letters was filed as exhibits. Mr. Bond told of his efforts in trying first to save Frank's Taxi (1969) Ltd., which he found impossible to do, and of his decision finally to try to transfer the licence authorities to himself and operate it as a "co-operative", together with some of the owner-operators/participants or owners of the previous operation.

The objector, Atwater Cabs (1978) Ltd., who called no witnesses, generally argued that there was already an adequate service being provided and held that no additional service should be licensed.

The Commission noted with interest the evidence adduced that fewer cabs are operating today in Campbell River than operated there 20 years' ago when the population was about one half of what it is at the present time. The Commission is also impressed with the growth which has taken place in the Campbell River area and the increase in the local recreational facilities, amenities and services designed to attract the tourist business. Impressive evidence was heard as to the importance of the tourist industry to the area and the potential for substantial growth in that industry. The Commission believes that because of an improving economy and the further demand created by the tourist season, it would be in the public interest to licence an additional competitive taxi service in the Campbell River area.

The Commission orders, therefore, that the application of Robert Charles Henry Roney, published as No. 886/82, for five new limited passenger vehicle (taxi) licences, be and it is hereby granted.

In considering the competing application of Bond, the Commission had a much more difficult decision to make. For a period of three or four months, this service has involved a "co-operative" relationship with Bond and a number of owner-operators of the transferee company and it is felt that, in general, this "co-operative" has been providing a reasonably adequate service.

The Commission is concerned, however, about a number of things, including testimony given at the hearing as to the rather loose and uncertain financial arrangements made for participation in this new venture, and testimony as to the manner in which the debts owned to a number of creditors of Frank's Taxi (1969) Ltd. are to be settled. The Commission also noted the statement made by Counsel on behalf of Mr. Karl Schmitt as to the unsatisfactory resolution of an agreement to purchase his substantial interest in Frank's Taxi (1969) Ltd.

While the Commission has rarely involved itself in such matters, which are civil in nature, it recognizes the attempt of Bond and others to salvage a business in the interest of some of the principals of Frank's Taxi (1969) Ltd. and some creditors. The Commission believes that there is enough merit in the application of Bond to permit the granting of the application if certain conditions are met.

It is ordered, therefore, that the decision of the Commission on the application of Alan Bond d/b/a Bee-Line Taxi, published as No. 1294/82, be and it is hereby deferred for a period of 120 days.

Before the expiration of this 120 day period, the applicant is required to submit to the Commission satisfactory written documentation outlining:

- (1) the efforts made to settle the debts owed to a number of major creditors of Frank's Taxi (1969) Ltd.;
- (2) the extent to which firm agreement has been reached between the applicant and such creditors;
- (3) the efforts made to arrange for a satisfactory resolution of the problems arising out of the agreement filed as Exhibit No. 32 between Karl Schmitt, Allan Wingert and Frank's Taxi (1969) Ltd.;
- (4) the results of any such efforts.

In the interim, the Commission authorizes the continuation of Temporary Operating Permits to this applicant as required. At the end of the 120 day period, the Commission will review the evidence submitted to

it, and by a further Order render its decision on the application of Alan Bond d/b/a Bee-Line Taxi, published as No. 1294/82.

It is further ordered that the security deposits filed by the applicants and by the qualified objectors be refunded.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE,
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

58-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an application of Tri-Line Expressways Ltd., Published as No. 283A/82.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 2nd day of June 1983.

ORDER

The application of Tri-Line Expressways Ltd., published as No. 283A/82, came on for hearing before the Motor Carrier Commission on Monday, April 11, 1983, continued on Tuesday, April 12, 1983, and was completed on Wednesday, April 13, 1983.

At the hearing the applicant (hereinafter referred to as "Tri-Line") was represented by Mr. L. R. Peterson, Q.C. The qualified objectors, Alltrans Express Ltd., a division of TNT Canada Ltd.; CP Express and Transport Ltd.; Midland Superior Express (Pacific) Ltd.; Motorways (1980) Ltd.; Porter Trucking Ltd.; Reimer Express (Pacific) Ltd.; White Pass Transportation Ltd.; and Direct Transportation System Ltd., were represented by Counsel, Mr. R. W. Macdonald and Mr. Barry Dong, while Southern Interior Holdings Ltd., Peninsula Transport Ltd. and Commercial Truck Co. Ltd., were represented by company officials.

Counsel for Tri-Line argued that the primary purpose of the application was a housekeeping one, to clarify and consolidate Tri-Line's Conditions of Licence by reducing the number of clauses from fifty-four to eight. He asserted that because of the wide range of commodities licensed to be transported, and the extensive areas served, the most appropriate commodity description would be "General Freight", and that two such clauses were included among the eight which would result if the application were granted. He also asserted that, in the view of Tri-Line, its existing Clauses No. 1 and 41 were tantamount to general freight authority; there being, in its view, very little freight that could not be transported under the said clauses.

The objectors argued generally that, if granted, the application would give the company far broader authority than it presently holds, and that it was not clear what the intentions of the applicant are as to future operations. They argued further that the lane of traffic between B.C. and Alberta, and vice-versa, is already overserved; competition is particularly severe; and the economic situation has generally resulted in declining volumes of revenue as well as staff cutbacks.

In considering all of the information before it, including sworn testimony, and arguments made by both the applicant and the objectors, the Commission makes the following findings of fact:

- (a) The application is generally housekeeping in nature, but if granted would, in fact, expand the operating authorities of the applicant;
- (b) The applicant's interpretations of Clauses 1 and 41 of its present Conditions of Licence are unreasonable and completely without merit;
- (c) The objectors failed to present any evidence of illegal operations by the applicant;
- (d) The objectors failed to prove that the granting of the amending application herein would be in excess of transportation requirements;
- (e) The applicant, though it did not present an abundance of support for the extension of its operating authorities, has satisfied the Commission that there is a need and necessity for allowing the applied for amendments in order that the applicant may better serve its customers and utilize its equipment;
- (f) The applicant has failed to prove any need for the applied for alteration to Clause 39 of its Conditions of Licence.

The Commission, therefore, orders that the application of Tri-Line Expressways Ltd., published as No. 283A/82, be and it is hereby granted as applied for, except for the amendment to Clause 39, which is hereby denied.

The Commission further orders that Clause 39 (amended Clause 3) of the applicant's Conditions of Licence be and it is hereby amended by having added thereto the following restrictions:

- (a) The special loading and unloading equipment for its transportation referred to in Clause 3, as amended, is restricted to cranes, winches, hiabs, and fork lifts; and
- (b) The resident contracting firms and equipment dealers referred to in Clause 3, as amended, are restricted to individuals or companies which maintain an office and place of business within the area defined.

The Commission further orders that the new Conditions of Licence of the applicant resulting from the amendments granted herein shall read as follows:

<i>Kind of freight that may be transported:</i>	<i>For whom to be transported:</i>	<i>Area, district or territory that may be served:</i>
1. General freight (excluding household goods and settlers effects) originating at or destined for points in Alberta, Saskatchewan, Manitoba. (Charter trips).	One individual or company only at any one time.	(A) From the B.C./Alberta border delivered to any point in B.C.; or vice versa. (B) From the B.C./Alberta border transported to the B.C./Yukon border in transit through B.C. only; or vice versa.
2. General freight (excluding household goods and settlers effects). (Charter trips).	One individual or company only at any one time.	Within Licence Districts Nos. 9A, 13, 14, 14A, and 15, and from these areas delivered to any point in B.C.; or vice versa.
3. Heavy hauling comprising the transportation of machinery and contractors equipment requiring special loading and unloading equipment for its transportation. (Charter trips).	Any resident contracting firm or equipment dealer resident within fifteen (15) road miles (24 km) from the boundaries of the City of Vancouver	Between points situated in B.C.
4. General freight (originating at or destined to points in the U.S.A.)	Any individual or company.	From Vancouver or points within ten (10) road-miles (16 km) from the boundaries transported to the B.C./U.S. border at Pacific Highway; or vice versa.
5. General freight (charter trips)	One individual or company only at any one time.	Within Licence District No. 21 south from the Peace River. ALSO: <i>Pick-up:</i> Licence District No. 21 south from the Peace River. <i>Delivery:</i> Licence District No. 21 north from the Peace River; or vice versa.
6. General freight (originating at or destined to points in the U.S.A. — in transit through B.C. only). (Charter trips).	One individual or company at any one time.	From the B.C./Alberta border transported to the B.C./U.S. border; or vice versa.
7. Lumber, pipe, brick and steel (destined for or originating in the Yukon Territory). (Charter trips).	One individual or company only at any one time.	From Vancouver and points situated within thirty (30) road-miles (48 km) from its boundaries transported to the B.C./Yukon border; or vice versa.

8. Grain and feed. (Charter trips).	One individual or company only at any one time.	From points in Licence District No. 21 delivered to points in Licence Districts No. 6, 7, 8, 9, 11, 14 and 15.
-------------------------------------	---	--

together with the standard interchange of trailer authority, and the restrictions:

- (a) imposed on page 3 of this Order;
- (b) attached to Clauses No. 3, 4, 5, 6, 7 and 8 of the applicant's Conditions of Licence which were transferred as is from its previous Conditions of Licence (Clauses No. 8, 20, 31, 39, 50 and 54); and the mandatory restrictions which are appropriate to new Clauses 1 and 2; and a complete prohibition against tacking any clauses.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman
GERARD M. MORRIS
Commissioner
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

74-83

in the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of the Application of Hyndman Transport (1972) Ltd., Published as No. 2057/82.

Before: JUDGE G. ROSS SUTHERLAND., *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 8th day of July, 1983.

ORDER

The application of Hyndman Transport (1972) Ltd., (hereinafter referred to as the applicant), published as No. 2057/82, came on for hearing before the Motor Carrier Commission of British Columbia sitting at a joint hearing together with the equivalent boards of the Provinces of Ontario, Manitoba, Saskatchewan and Alberta, at Toronto, Ontario, on June 13, 1983.

At these proceedings the applicant was represented jointly by Counsel Mr. R. H. Waters and Counsel Mrs. Miriam D. Isenberg. Seven licensed carriers opposed the B.C. application, and qualified as objectors by having filed with the Commission \$50 security deposits and complying with the appropriate requirements of Regulation 4.16 of the *Regulations Respecting Motor Carriers*. Four objectors, Midland Superior Express Ltd., Direct Transportation Systems Ltd., All Trans Express (a division of TNT Canada Inc.) and Canadian Pacific Express and Transport Ltd., were represented by Counsel, Mr. Dean Saul, with the remaining three, Reimer Express Lines Ltd., Arnold Bros. Transport Ltd., and Kingsway Freightlines Ltd., represented by Counsel, Mr. Jim Foran.

The application being considered by the Commission at the said joint hearing was for new Class III Public Freight-vehicle Licences to be operated in the following manner:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General freight (originating in Ontario) (Charter trips).	One individual or company only at any one time.	From the B.C./Alberta border delivered to points in B.C.
Livestock.	For any individual or company.	From points in the Province of B.C. to the B.C./Alberta border for furtherance to points in Ontario.

The applicant does not hold any licensing authority in British Columbia at the present time, but if the application were granted, it intends to utilize its specially designed cattle trailers to transport livestock to Ontario from points in B.C., and after thorough cleaning and some rearranging of the trailers, to transport general freight to British Columbia from points in Ontario.

MOTOR CARRIER ACT

Following the completion of the applicant's case, and a subsequent in camera meeting with the Commission and Counsel for the qualified objectors, Counsel for the applicant, Mr. R. H. Waters, formally moved to amend the application to read as follows:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General freight (originating in the province of Ontario) (charter trips).	Mustang Engineering & Construction Ltd., Matthews Group Ltd., B. K. Metal Supplies Ltd., E.S.C. (Myles) Inc.	From the B.C./Alberta border delivered to points in Licence District No. 21 south of the Peace River.
Livestock (destined to the Province of Ontario).	Any individual or company.	From that area in Licence District No. 21 south of the Peace River in the Province of British Columbia, to the B.C./Alberta border for furtherance to points in the Province of Ontario.

Restrictions:

- (1) The picking up of freight in B.C. for delivery in B.C. is prohibited.
- (2) Freight carried under these classes is restricted to that either originating in or destined to the Province of Ontario.
- (3) None of the freight carried under these clauses shall be of the type requiring temperature control.

There being no objections to the motion by Counsel for the qualified objectors, the Commission granted the motion, after which Mr. Dean Saul and Mr. Jim Foran, Counsel for the seven qualified objectors, then formally withdrew their opposition to the amended application.

After hearing all of the evidence and testimony presented at the hearing, the Commission has concluded that it would be in the public interest to grant the application, as amended.

It is ordered, therefore, that the application of Hyndman Transport (1972) Ltd., published as No. 2057/82, be and it is hereby granted *as amended at the hearing*, subject to compliance by the applicant with the usual licensing requirements, including the filing with the Commission of suitable contracts, particulars of the vehicles to be used, proof of insurance, and registration as an extra-provincial corporation.

It is further ordered that the \$50 security deposits filed by the applicant and by the qualified objectors be refunded.

The applicant is cautioned to carefully note that only freight originating in or destined to the Province of Ontario is to be transported under the terms of the authority granted.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman
GERARD M. MORRIS
Commissioner
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

78-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1156/82 of Leo Fix Transfer & Storage Co. Inc.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*.

Dated the 13th day of July, 1983.

ORDER

The application of Leo Fix Transfer & Storage Co. Inc., published as No. 1156/82, which had been refused, came before the Motor Carrier Commission for review on May 25, 1983.

The applicant was represented by Counsel, Mr. Paul B. Joyce, and Mr. Leo Fix, president of the applicant company. Appearing as objectors to the application were Arrow Transportation Systems Inc.,

represented by Mr. John Marshall; Commercial Truck Co. Ltd., represented by Mr. R. Bligh; Alltrans Express (Special Commodities) Division of TNT Canada Inc., represented by Mr. W. J. Wilson; and Tri-Line Expressways Ltd., represented by Mr. Gordon Cohoon.

In his opening statement, Counsel for the applicant commented on the great length of time the applicant company had been in business; the number of vehicles operated; terminal location and specialized service to and around the Seattle port area; the restrictive nature of the application, that is, general freight in containers; and the imbalance of traffic which indicated a need for more service from Seattle to Vancouver. He also referred to the substantial number of letters filed in support of the application.

The following witnesses appeared in support of the application:

Mr. B. S. Thorsteinson of B.R. Anderson & Company;

Mr. A. L. Tokin of Kuehne & Nagel Inc.;

Mr. S. Odegard of Harper Robinson & Company;

Mr. M. Radenold of Karl Schroff & Associates Inc.

All of the witnesses spoke very favourably of the applicant's service and expertise. Testimony of the witnesses also encompassed some reference to slow service, occasional equipment shortages and the need for a greater choice of reliable carriers.

Cross-examination by the objectors revealed that a significant percentage of deliveries of container freight to and from docks was controlled by shipping companies rather than by the firms represented by the witnesses called.

The objectors claimed there was no need for an additional carrier, and cited the downturn in business, reduced volumes of container freight, idle equipment and staff layoffs.

Counsel for the applicant argued that the nature of the freight was restricted, and that the applicant would licence only 10 vehicles to provide the service; he asserted that the carrier was fit, willing and able, and that there was an obvious need for a Seattle-based carrier to complement the service now available.

After carefully considering all of the information before it, including the evidence, testimony and argument presented during the review hearing, the Commission has concluded that it would be in the public interest to grant licence authority to the applicant.

It is ordered, therefore, that the Commission's previous decision in this matter, refusing the application of Leo Fix Transfer & Storage Co. Inc., published as No. 1156/82, be and it is hereby rescinded.

It is hereby further ordered that the application of Leo Fix Transfer & Storage Co. Inc., published as No. 1156/82, is hereby granted in the terms applied for, subject to compliance by the applicant with the usual mandatory licensing requirements.

It is hereby further ordered that the service to be provided under the licensing authority granted herein, is, by the consent of the applicant, restricted to the operation of ten (10) designated vehicles.

By the Commission:

JUDGE G. ROSS SUTHERLAND

Chairman

GERARD M. MORRIS

Commissioner

A. W. BASILE,

Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

81-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of *The Motor Carrier Act*; and in the Matter of Pathfinder Lines Inc.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 13th day of July, 1983.

ORDER

The hearing at which Pathfinder Lines Inc. (hereinafter referred to as the respondent) was given the opportunity to Show Cause why all of the licences issued to it by the Motor Carrier Commission should not be cancelled due to failure on the part of the licensee to exercise the rights and privileges authorized by such licences, or to provide an adequate or efficient service, came before the Commission on February 16, 1983, in Prince George, B.C.

The respondent in these proceedings was represented by Counsel Mr. David Searle, Q.C. and Mr. R. W. Fenniak of the Trustees in Bankruptcy, Deloitte, Haskins and Sells Ltd.

Mr. R. W. Fenniak gave testimony, and in particular he dealt with the disposition of assets, list of creditors, and the extent to which unsecured creditors might be paid. In argument, Counsel for the Trustee indicated that the Trustee had acted prudently in the public interest; that the cessation of operations in 1982 did not indicate a lack of public need; that the Trustee had acted as expeditiously as possible; and that it was contrary to the public interest to cancel this authority.

The Commission, after carefully considering all of the facts and information available to it, concluded that Pathfinder Lines Inc. and the Trustee, Deloitte, Haskins and Sells Ltd., had failed to Show Cause why the licence authority granted to Pathfinder Lines Inc. should not be cancelled.

The Commission orders, therefore, that all of the licences issued to and in the name of Pathfinder Lines Inc., together with any rights and privileges conferred by such licences, be and they are hereby cancelled and extinguished.

By the Commission:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

96-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its Decision Partially Granting the Application of Golden Pacific Distributors Inc., Published as No. 917A/82.

Before: A. W. BASILE, Commissioner.

Dated the 7th day of September, 1983.

ORDER

Whereas the Motor Carrier Commission, at a regular meeting held on February 9, 1983, considered and granted in part the application of Golden Pacific Distributors Inc., published as No. 917A/82; and

Whereas several objectors to the said application requested the Motor Carrier Commission to review its decision; and

Whereas the Motor Carrier Commission agreed to hold a review hearing on Wednesday, September 7, 1983, at 10 o'clock in the forenoon, at the Motor Carrier Branch Board Room, 4240 Manor Street, Burnaby, B.C.; and

Whereas at the hearing the applicant (Golden Pacific Distributors Inc.) was represented by Mr. Randall Charles Hoy, its president; and the objectors were respectively represented as follows: Moznik Trucking Ltd. by R. W. Macdonald, Esq; Alltrans Express, a division of TNT Canada Inc. by Mr. Martin Askew; H & R Transport Ltd. by P. B. Joyce, Esq; Reimer Express Lines Ltd. by Mr. D. Taylor; Direct Transportation System Ltd. by Mr. G. Matthews; British Columbia Motor Transport Association by Mr. R. Weston; and Motorways (1980) Ltd. by T. Robbins, Esq.; and

Whereas at the conclusion of the hearing, the Motor Carrier Commission pronounced its decision with reasons;

The Motor Carrier Commission orders that its decision made on February 9, 1983, herein be in part rescinded.

The Motor Carrier Commission further orders that Clause 4 (general freight) of Application No. 917A/82, which on February 9, 1983 was granted, be revoked, and be replaced with the following clause:

Commodities to be carried:

Indoor plants, live tropical plants, flowering plants, shrubs, trees, flower pots, soil, plant foods, fertilizers, nursery stock, and all other goods used in the business of retailing indoor plants and allied accessories.

For Whom to Be Carried:

Any individual or company.

Area, Route or Territory:

- (a) Within Licence Districts 14, 14A and 15.
- (b) From Licence Districts 14, 14A and 15 transported to the British Columbia/Alberta border or the British Columbia/United States border; or vice versa.

The Motor Carrier Commission further orders that in all other respects its decision herein made on February 9, 1983, be and it is hereby confirmed.

Order signed this 14th day of September, A.D. 1983.

Approved by:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

127-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 3402/81 of Ill Eagle Transport Ltd. Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 24th day of November 1983.

ORDER

Whereas the Motor Carrier Commission, after considering the application of Ill Eagle Transport Ltd., published as No. 3402/81, for transfer to it of all Class III Public Freight-vehicle Licences from J. Harper, granted the application on April 8, 1982, conditional upon compliance by the applicant with the usual mandatory pre-licensing requirements, including the filing of an acceptable tariff; and

Whereas the applicant was informed of that decision by letter dated April 19, 1982, and advised at the same time of the need to comply with the usual mandatory pre-licensing requirements; and

Whereas the applicant was reminded again by letter dated November 1, 1982 of the need to comply with the usual pre-licensing requirements, and further advised on September 21, 1983 that the matter would be referred to the Commission for resolution unless all of the pre-licensing requirements had been attended to by October 19, 1983; and

Whereas although a period of some 19 months has elapsed since the application for transfer was approved, the applicant has not yet complied with all of the usual mandatory pre-licensing requirements;

The Motor Carrier Commission orders, therefore, that the licence authority transferred to but not yet issued to Ill Eagle Transport Ltd., conditional upon compliance by the applicant with the usual mandatory pre-licensing requirements, together with any rights and privileges arising therefrom, be and they are hereby *suspended* until such time as the suspension order is lifted by direct written order of the Motor Carrier Commission of British Columbia.

Approved by:

JUDGE G. ROSS SUTHERLAND,
Chairman
GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

MOTOR CARRIER ACT

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

131-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of *The Motor Carrier Act*; and in the Matter of Beaver Transport Ltd. of Fort St. John, B.C., Respondent.

Before: GERARD M. MORRIS, *Deputy Chairman*.

Dated the 7th day of December 1983.

ORDER

The hearing at which Beaver Transport Ltd. was to Show Cause why all of the licences issued to it by the Commission should not be cancelled due to the failure on the part of the said licensee to exercise the rights and privileges granted by the licences, or to provide an adequate and efficient service under said licences, came before the Motor Carrier Commission, on Thursday, October 20, 1983, at the Motor Carrier Commission's offices, 203—535 Thurlow Street, Vancouver, B.C.

Mr. David Searle, Q.C., represented Henfrey, Samson & Belair Ltd., Receiver-Manager of the respondent company, at the hearing. In presenting his case to Show Cause why the licences should not be cancelled, he called three witnesses, who each testified as to the adequacy and continuity of the service provided by the Respondent, both before it was placed in Receivership on April 6, 1983, and since that date.

In addition, a substantial number of invoices and bills of lading were filed at the hearing to indicate that service was and is still being provided to the Respondent's shipper customers.

Three other Counsel were present at the hearing also: Mr. Paul Joyce, representing Brian Clarke Trucking Ltd. and Norscott Transport (1981) Ltd.; Mr. Robert Cosburn, representing FSJ L.A.N.D. Transport Ltd.; and Mr. Melvin R. Reeves, representing some 31 creditors of the Respondent, including some of its former lease operators.

Although it was made clear they had no status, the three were invited to make a representation to the Commission on the matter before it. Only Mr. Joyce did so, however, saying that the firms he represented felt that because of the general decline in the "oil-patch", the licence of the Respondent should be cancelled.

In considering all of the information before it, including the testimony and exhibits presented at the hearing, the Commission makes the following findings of fact:

- (a) The Respondent was placed in Receivership on April 6, 1983;
- (b) Prior to April 6, 1983, the Respondent was providing an adequate service according to its licence authority;
- (c) That service has continued without interruption since April 6, 1983 under the management of the Receiver;
- (d) The Respondent has been successful in maintaining the patronage of its regular customers and retaining the services of most of its employees, including, in particular, a substantial number of its former owner-operators.

The Commission has concluded, therefore, that there is no significant or compelling reason that cancellation of the Respondent's licence at this time would be in the public interest.

The Commission orders, therefore, that the licence authority issued to and in the name of Beaver Transport Ltd. be and it is hereby continued in force.

Approved by:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

134-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application of B.D.C. Ltd., Published as No. 125/83.

Before: GERARD M. MORRIS, *Deputy Chairman*.

Dated the 8th day of December 1983.

ORDER

The application of B.D.C. Ltd. (name now changed to Gelco Express Ltd. and referred to hereinafter as "Gelco"), published as No. 125/83, came before the Motor Carrier Commission for hearing on October 3, continued to October 6, was adjourned generally and reconvened on November 21, continued through to November 23, with argument being heard on November 24, 1983.

Gelco was represented in these proceedings by Counsel Mr. R. W. Macdonald and the objectors, All-Can Express Ltd., d/b/a Ace Courier Services, Upper Valley Messengers Ltd., Ambrose Hynes Delivery (Duncan) Ltd., and Maidstone Management Ltd., were represented by Counsel, Mr. Paul Sabatino. Loomis Courier Service Ltd. was represented by Counsel, Mr. D. LaCharite, and Motorways (1980) Ltd., filed the appropriate security deposit but failed to appear at the hearing and was not represented there.

Gelco is a substantial national courier company doing business across Canada, which by this application, seeks to broaden its authority in this province by deleting all of the clauses in its Conditions of Licence, and restrictions attached thereto, except for existing Clause No. 12 (a general freight clause) and substituting therefor an additional general freight clause reading as follows:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General courier freight (as defined)	Any individual or company.	Between any points in Licence Districts 4, 5, 6, 7, 8, 9, 14, 14A and 15 and Vancouver Island, and to any B.C./U.S. border point for furtherance to U.S.A. points; and vice versa.

Definition:

General freight that is:

- (a) restricted to pieces weighing no more than 90 lbs.;
- (b) time sensitive requiring delivery next day;
- (c) transported on vehicles not to exceed 30,000 lbs. (13 637 kg) gross weight.

During the course of the hearing, 29 witnesses were called to give testimony and 44 exhibits were filed, each of which was discussed to some extent at the hearing and examined by the Commission either at that time or subsequently.

The applicant based its case on the testimony of the witnesses and a large number of individual and form letters of support, together with a number of affidavits. The evidence of witnesses and the support material indicated that the applicant provides excellent service and enjoys good customer relations. Evidence in support of the application also indicated the need for a high quality over-the-road courier service to compete on an even footing with the carriers presently supplying courier services, particularly on Vancouver Island and points in the Okanagan.

Objectors to the application argued that the applicant was seeking to compete only in the most populated and therefore the most lucrative portions of the province. It was also argued that diminution of financial returns to existing carriers might well have the effect of reducing service or increasing the cost thereof in those areas which were currently being cross-subsidized to some extent.

The applicant indicated that it would offer a very complete mainline and local service, particularly on Vancouver Island and in the Okanagan. The service was to be in the major part provided by the applicant's vehicles and employees, supplemented by the use of agents in a few areas.

In considering all of the evidence before it, and the arguments presented at the hearing, the Commission has concluded that the applicant has proven that there exists some public need for the proposed service and has concluded therefore that it would be in the public interest to grant some significant additional authority to the applicant.

Although the level of service proposed by the applicant commended itself, the Commission was disappointed by the failure of the evidence to indicate the extent to which in-depth studies, if any were undertaken, had supported the economic viability of the additional services sought to be provided.

For that reason Gelco will be required, and is directed to file with the Superintendent of Motor Carriers, a report on a quarterly basis over the next year, indicating the level and frequency of service provided, and the number of shipments and dollar volume in the two areas mentioned above. These reports will be carefully reviewed by the Commission to see that the service commitments of the applicant are, in fact, fulfilled.

The Commission has noted that Gelco, during the course of the hearing, emphasized repeatedly that it is in the courier business, that its shipments are time sensitive, and that a vast majority of its parcels are smaller in size than those generally associated with general freight carriers. The Commission has decided, therefore, to further restrict the weight of shipments to be carried under the additional authority to be granted.

In granting additional authority to the applicant, the Commission is of the view that the effect on the objectors of record will not be so severe as to impair their ability to provide a service or to endanger the services they now provide to the public. The applicant, even now, is able to compete by interlining with other carriers or by utilizing more expensive alternative air service. The Commission feels that, in fact, more competition on an even footing may improve service.

The Motor Carrier Commission orders, therefore, that the application of Gelco Express Ltd., published as No. 125/83 (under the name of B.D.C. Ltd.) be and it is hereby granted in the following terms:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General courier freight (as defined)	Any individual or company.	Between points in Licence Districts 4, 5, 6, 7, 8, 9, 14, 14A and 15 and Vancouver Island, and to any B.C./U.S.A. border point for furtherance to U.S.A. points; and vice versa.

Definition:

1. General courier freight is freight that is time sensitive requiring delivery the next business day.
2. Transported on vehicles not exceeding 30,000 lbs (13 367 kg) gross weight.

Restrictions:

1. Authority is restricted to parcels weighing no more than 50 lbs. (22.68 kg) per parcel and weighing no more than 100 lbs. (45.36 kg) per shipment in the aggregate for all parcels from any one shipper to any one place at any one time.

A further restriction is added with the full consent of the solicitor for the applicant and is intended to allay the concerns of the objectors at the hearing who had heard rumours that the applicant company is for sale. This restriction reads as follows:

2. The authority granted by these Conditions of Licence and the licence document issued in relation thereto are not to be assigned or transferred in whole or in part to any other person or corporation nor shall there be any change of ownership of the shares of the licensee company affecting control thereof, without formal consent of the Motor Carrier Commission.

Note:

Existing Clause No. 12 (general freight) of the Carrier's existing Conditions of Licence remains intact.

The Motor Carrier Commission further orders that the security deposits filed by the applicant and by the qualified objectors be refunded, except that of Motorways (1980) Ltd., who failed to appear at the hearing and was not represented there.

Approved by:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

135-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of a Hearing Pursuant to Section 41 of *The Motor Carrier Act*; and in the Matter of Empress Transportation Co. Ltd., Empress Taxi Ltd., and Patricia L. Kennedy, D/B/A Pat Kennedy Taxi and/or Taxi, Taxi, of Victoria, B.C.; Respondents.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, and GERARD M. MORRIS, *Commissioner*

Dated the 30th day of November 1983.

ORDER

The Section 41 hearing at which Empress Transportation Co. Ltd., Empress Taxi Ltd. and Patricia L. Kennedy d/b/a Kennedy Taxi and/or Taxi, Taxi, were directed to respond to a complaint filed by a number of Victoria taxi operators, came before the Motor Carrier Commission on November 30, 1983, in Victoria, B.C.

The complainants, in a letter dated September 2, 1983, raised some questions with respect to the following matters:

- (1) The rates charged by the Respondents for their services;
- (2) The service provided by the Respondents outside the exempt area;
- (3) The seating capacity of the vehicles operated by the Respondents;
- (4) The name changing and company changing of the Respondents.

The Commission heard sworn testimony at the hearing from a number of witnesses, including spokesmen for the complainants, who represented themselves, and from the Respondents, who were represented by Counsel, Mr. Paul Joyce. The Commission examined the exhibits filed at the hearing, and considered carefully the arguments presented by both sides.

In adjudicating this matter, the Commission makes the following findings of fact:

- (1) That although there is no evidence to support the allegations of name-changing, the fact that the Respondents may appear to control and blend the operations of a number of companies is confusing to the public and disturbing to other taxi companies in the Victoria area;
- (2) That no evidence was adduced to indicate that the Respondents had abused the seating capacity of their vehicles, either intentionally or otherwise;
- (3) That the complainants failed to prove any substantial violations which would indicate that the Respondents were providing services beyond the areas authorized by their licence authority;
- (4) That the Respondents had installed meters in their vehicles which provided for variable rates and had, in fact, charged such rates;
- (5) That the Respondents, in charging such variable rates, had interpreted their tariffs in a manner not approved by the Commission.

The Motor Carrier Commission orders, therefore, that the Respondents *Cease and Desist* from any unauthorized activities and directs them to operate entirely within their Conditions of Licence.

Furthermore, the Commission serves notice on the Respondents that their operations will be closely monitored for a period of one year from the date of this Order.

It is pointed out to the Respondents that violations of the *Motor Carrier Act* may result in disciplinary action being taken pursuant to Section 9 of the *Motor Carrier Act*, which provides for the suspension or cancellation of licences of carriers who do not comply with the terms of their licence, or with the *Motor Carrier Act* or the *Regulations* thereunder.

Dated the 9th day of December 1983.

Approved by:

JUDGE G. ROSS SUTHERLAND
Chairman
GERARD M. MORRIS
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

137-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 257/83 of Wells Fargo Armcar Inc.

Before: A. W. BASILE, *Commissioner*.

Dated the 4th day of November 1983.

ORDER

The application of Wells Fargo Armcar Inc., published as No. 257/83, came before the Motor Carrier Commission for hearing on September 20, 21, 22, 23, 27, 28, 29 and 30, 1983, was adjourned and reconvened on October 26, and continued to its conclusion on October 28, 1983.

Wells Fargo Armcar Inc. was represented at the hearing by Roderick W. Macdonald, Esq., and the qualified objectors, Loomis Armoured Car Service Ltd., and Brinks Canada Ltd., were respectively represented by Denis T. LaCharite, Esq., and Tobin S. Robbins, Esq.

The Commission, before orally rendering its decision with reasons, on November 4, 1983, considered carefully all of the evidence and information before it, including the testimony of some 20 witnesses, the exhibits filed, and the arguments of Counsel.

The Motor Carrier Commission orders that the application of Wells Fargo Armcar Inc., published as No. 257/83, be and it is hereby granted as applied for.

The Motor Carrier Commission further orders that all of the security deposits filed in connection with this matter be refunded.

Dated the 15th day of December 1983.

Approved by:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

140-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of *The Motor Carrier Act*; and in the Matter of Ideal Fuel Co. Ltd., Kern Kartage Ltd., and Quay Transport Ltd., of Victoria, B.C., Respondents; and in the Matter of Application No. 391A/83 of Deljeat Johal Trucking Ltd., of Victoria, B.C.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 22nd day of December 1983.

ORDER

The application of Deljeat Johal Trucking Ltd. (referred to hereinafter as "the applicant"), published as No. 391A/83, for transfer/renewal to it of all licences from Ideal Fuel Co. Ltd., Kern Kartage Ltd. and Quay Transport Ltd., (all three in bankruptcy), and thereafter to amend the existing licence authority, came before the Motor Carrier Commission in Victoria, B.C., on Monday, November 28, 1983.

The applicant in these proceedings was represented by Counsel, Mr. L. R. Peterson, Q.C. The qualified objectors, Sarai Enterprises Ltd., the British Columbia Motor Transport Association, Canadian Pacific Ltd., A.C. Cartage (1965) Ltd., R.N. Kelln Transport Ltd., and Inter-City Express Ltd., were represented respectively by Counsel Mr. Tobin S. Robbins, Messrs. R. Weston, E. D. Moule, W. Gardner, R. N. Kelln and W. Blaney.

After a brief opening address, Mr. Peterson called three shipper witnesses, all of whom expressed strong support for certain portions of the application, citing long friendly relations with the Johal family, as well as complete satisfaction with the knowledge, dependability and experience of the 25 year old president of the applicant firm. Some optimism was indicated by these witnesses who felt that the economy of Vancouver Island might improve to some degree in the New Year.

The testimony of Mr. Johal, president of the applicant company, coincided with that of other witnesses, who felt that the financial difficulties which resulted in bankruptcies had been aggravated by two factors: first, the illness of the senior Johal, who up until that time was responsible for management of the three bankrupt companies; and second, the present recession, which has hit the Vancouver Island logging-based economy particularly harshly.

The representative of the B.C.M.T.A. expressed the view of that Association that motor carriers who become bankrupt or are placed in receivership, and whose licences are therefore "dormant", should face licence cancellation unless all of the creditors are paid in full, and there is a proven public need for a continuation of the licences.

The objectors, other than Canadian Pacific Ltd., which was an unpaid creditor of one of the bankrupt companies, generally had benefitted business-wise from the demise of the three formerly active companies. They expressed their complete opposition to the granting of the application for transfer, citing as reasons the fact that adequate service was readily available, and that, in fact, surplus transportation capacity existed at the present time.

The Commission, in considering all of the information and evidence before it, and the arguments and exhibits presented at the hearing, makes the following findings of fact:

1. The applicant has the support of substantial producers and shippers, who express confidence in its ability to provide an excellent service particularly suited to their needs;
2. The qualified objectors have indeed been providing service formerly provided by the bankrupt companies, but such service actually resulted in an expansion of their operations rather than placing idle equipment into service;
3. The qualified objectors did not give convincing evidence that the granting of the application would impair their operations to the extent that they would be unable to provide a public service.

The Commission does not find that there is justification for granting the application in its entirety, but it believes it to be in the public interest to grant the applicant authority to provide those services which have significant shipper support.

The Motor Carrier Commission orders that the applicant, Deljeat Johal Trucking Ltd., be and it is hereby granted the following licence authority:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
1. Lumber, ties, plywood, lath, shingles, shakes and shingle bands, logs, poles, pilings, pulp logs, pine cones, hog fuel, pulp chips, rough or dressed lumber, timbers and cants. (Charter trips).	Any one individual or company at any one time.	Between points on Vancouver Island, and from; this area delivered to Licence Districts 14, 14A and 15; or vice versa.
2. Export lumber (rough or dressed for export only). (Charter trips).	Any one individual or company at any one time.	Between any of the following docks: Ogden Point Dock, Cowichan Bay Dock, Osborne Bay Wharf, Chemainus Assembly Dock, Harmac Assembly Dock, Nanaimo Assembly Wharf, and Port Alberni Export Docks.
3. Lumber (rough or dressed for export only). (Charter trips).	Seaboard Shipping Company Ltd.	From mills situated within the area comprising Vancouver and points situated within a radius of fifty (50) miles therefrom, delivered to Deep Sea Wharves located at New Westminster, and points situated within a radius of fifteen (15) miles therefrom.

The new licence authority granted by this order will come into effect only after acceptable tariffs have been filed and the usual mandatory pre-licensing requirements have been complied with.

The Motor Carrier Commission further orders that all of the security deposits filed in connection with this matter be refunded.

The Motor Carrier Commission, having made the Order herein to allow the transfer of some authority to Deljeat Johal Trucking Ltd. from the three bankrupt licencees, namely, Ideal Fuel Co. Ltd., Kern Kartage Ltd., and Quay Transport Ltd., is satisfied that the public need is served by it having granted Deljeat Johal Trucking Ltd. some of the authority of the said bankrupt companies. The Commission, however, finds as a fact that there is neither a public need and necessity nor any other public interest for allowing the balance of the Conditions of Licence of the said bankrupt companies to survive.

The Motor Carrier Commission orders that, pursuant to Section 9 of the *Motor Carrier Act*, all of the Conditions of Licence of Ideal Fuel Co. Ltd., Kern Kartage Ltd., and Quay Transport Ltd., except for those

herein ordered transferred to Deljeat Johal Trucking Ltd., are hereby cancelled, together with any rights and privileges conferred by such licences.

Approved by:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

143-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Show Cause Hearings Pursuant to Section 9 of *The Motor Carrier Act*; and in the Matter of Dowell's Moving & Storage Ltd., Reliable Transfer of Victoria Ltd., and Tyee Moving & Storage Ltd., Respondents.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 23rd day of December 1983.

ORDER

The Motor Carrier Commission convened Show Cause Hearings, pursuant to Section 9 of the *Motor Carrier Act*, wherein Dowell's Moving & Storage Ltd., Reliable Transfer of Victoria Ltd., and Tyee Moving & Storage Ltd., were given the opportunity to Show Cause why their Conditions of Licence should not be cancelled for their failure to exercise any of the rights and privileges granted in their licences; and for failing to provide adequate and efficient services.

The Respondents were represented by Mr. E. E. Bowes, Counsel for Thorne Riddell Inc., Receiver-Manager of the three Respondent companies. Other parties present were: Mr. B. H. Neef; Mr. B. A. Barrington-Foote; Mr. D. A. Duffy; Mr. B. Bevan; Mr. A. Holgate; Mr. A. N. Patterson, and Mr. J. Fearn; all of whom were concerned with the transfers of the Conditions of Licence of the Respondents; that is, either for or against the transfer.

Mr. Bowes called several witnesses, and presented a very able argument. It was shown by the evidence he called that there is considerable goodwill in the Victoria area for the continuation of the Dowell Group of Companies, of which the three Respondents are a part; and that the transferees are all fit, willing and able motor carriers. He argued that the Motor Carrier Commission's blanket policy of not allowing transfers of Conditions of Licence from insolvent companies makes good sense, provided, however, that there is a lack of public interest (need and necessity), and the lack of proper transferees to continue the businesses. He asserted further that neither of these criteria were present in these matters, and that in any event, the Motor Carrier Commission had already decided the issues by allowing the transfer, on December 1, 1982, of Blue & White Ferridays Moving & Storage Co. Ltd. (another Dowell Company) to Victoria-U-Load Ltd., under Application No. 1107/82.

The Motor Carrier Commission also considered the submissions of the other parties present, which included the British Columbia Motor Transport Association.

The Commission, in these matters, feels that it must, with reluctance, concur with Mr. Bowes' argument. It also makes particular note of the responsible approach taken by the Receiver-Manager (Thorne Riddell Inc.), which informed all those parties with whom it dealt concerning the transfers of Conditions of Licence that they were all "subject to Motor Carrier Commission approval".

The Motor Commission orders that the Show Cause proceedings against Dowell's Moving & Storage Ltd., Reliable Transfer of Victoria Ltd., and Tyee Moving & Storage Ltd., be dismissed, and that their Conditions of Licence remain in force.

Approved by:

GERARD M. MORRIS
Deputy Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

REPORT OF THE MOTOR CARRIER COMMISSION

21

PROVINCE OF BRITISH COLUMBIA MOTOR CARRIER COMMISSION

2-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of *The Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review of Application No. 125/83 of Gelco Express Ltd.

Before: GERARD M. MORRIS, *Acting Chairman*, and A. W. BASILE, *Commissioner*

Dated the 27th day of January 1984.

ORDER

Whereas the Motor Carrier Commission, after a full public hearing, rendered its decision, with reasons, in its Order No. 134-83, dated the 8th day of December 1983; and

Whereas Roderick W. Macdonald, Esq., Counsel for Gelco Express Ltd. (formerly B.D.C. Ltd.), by a letter dated December 14, 1983, requested the Motor Carrier Commission to review its decision; and

Whereas the Motor Carrier Commission agreed to have its Order herein, settled, and notified the applicant and all the qualified objectors that the Commission would be holding a meeting on Friday, January 6, 1984, at 10 a.m., at the Commission's offices, 203—535 Thurlow Street, Vancouver, B.C., to have its said Order settled; and

Whereas at the meeting, the applicant was represented by R. W. Macdonald, Esq., and the qualified objectors: All-Can Express Ltd., d/b/a Ace Courier Services, Upper Valley Messenger Ltd., Ambrose Hynes Delivery (Duncan) Ltd. and Maidstone Management Ltd., by Paul Sabatino, Esq.; and Loomis Courier Service Ltd., by D. T. LaCharite, Esq.; and

Whereas the meeting was held on January 6, 1984, and adjourned to Friday, January 13, 1984, when it concluded; and

Whereas the Motor Carrier Commission agreed to have its said Order settled to give the parties the opportunity to deal with Mr. Macdonald's concerns, and to give full effect to the Commission's stated intention that it granted Gelco operating authority in order that service to the public would be improved by allowing it to compete on a more even footing, rather than by interlining with other carriers or by utilizing more expensive alternative air service.

The Motor Carrier Commission is grateful to all three Counsel for their considerable help, and suggestions and recommendations.

The Motor Carrier Commission feels that its said Order can best be settled by amending Page 4.

The Motor Carrier Commission orders that Page 4 of its Order made herein on the 8th day of December 1983, be and it is hereby amended to read as follows:

The Motor Carrier Commission orders that the application of Gelco Express Ltd., published as No. 125/83 (under the name of B.D.C. Ltd.), be and it is hereby granted in the following terms:

- (a) the present Conditions of Licence of Gelco Express Ltd. (B.D.C. Ltd.) shall remain in full force and effect;
- (b) there shall be added to the Conditions of Licence of Gelco Express Ltd., a new Condition, being Clause No. 14, which shall read as follows:

<i>Commodities to Be Carried:</i>	<i>For Whom to Be Carried:</i>	<i>Area, Route or Territory:</i>
General courier freight (as defined)	Any individual or company.	Between points in Licence Districts 4, 5, 6, 7, 8, 9, 14, 14A and 15, and Vancouver Island, and to any B.C./U.S.A. border point for furtherance to U.S.A. points; and vice versa.

Definition:

General courier freight is freight that is time sensitive requiring delivery the next business day.

Restrictions:

1. Authority is restricted to parcels weighing no more than 50 lbs. (22.68 kg) per parcel and weighing no more than 100 lbs. (45.36 kg) per shipment in the aggregate for all parcels from any one shipper to any one place at any one time.

A further restriction is added with the full consent of the solicitor for the applicant and is intended to allay the concerns of the objectors at the hearing who had heard rumours that the applicant company is for sale. This restriction reads as follows:

2. The authority granted by these Conditions of Licence and the licence document issued in relation thereto are not to be assigned or transferred in whole or in part to any other person or corporation nor shall there be any change of ownership of the shares of the licensee company affecting control thereof, without formal consent of the Motor Carrier Commission.

The Motor Carrier Commission further orders that the security deposits filed by the applicant and by the qualified objectors be refunded, except that of Motorways (1980) Ltd., who failed to appear at the hearing and was not represented there.

Approved by:

GERARD M. MORRIS
Acting Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

5-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review of Application No. 1865/83 of Koltran Coach Lines Ltd., of Calgary, Alberta.

Before: GERARD M. MORRIS, *Acting Chairman*, and A. W. BASILE, *Commissioner*

Dated the 30th day of January 1984.

ORDER

Whereas the application of Koltran Coach Lines Ltd., published as No. 1865/83, came on before the Motor Carrier Commission for consideration and decision on December 20, 1983; and

Whereas the Motor Carrier Commission, on that date, considered all of the information before it, and decided that the application of Koltran Coach Lines Ltd., for ten limited passenger-vehicle licences to provide the following transportation service:

Terminal Point: Fernie, B.C.

Nature of Service: As a limited passenger-vehicle transporting industrial workers on behalf of Crows Nest Resources Ltd. between the Line Creek Mine Site at/near Sparwood and points within 60 km thereof and also between the Line Creek Mine Site and the B.C./Alberta border while engaged in an extra provincial undertaking.

should be granted; and

Whereas Dicken Bus Lines Ltd., an objector to the application, on December 23, 1983, by two telegrams from T. G. Colgur, Esq., its solicitor, requested the Commission to review its decision of December 20, 1983; and

Whereas the Motor Carrier Commission decided to review its decision, and then notified both the applicant and Dicken Bus Lines Ltd. of the review, which was set for and held on Tuesday, January 10, 1984, at the offices of the Motor Carrier Commission, 203—535 Thurlow Street, Vancouver, B.C.; and

Whereas at the review hearing, Dicken Bus Lines Ltd. was represented by T. G. Colgur, Esq.; the applicant, by Tobin S. Robbins, Esq.; and Crows Nest Resources Ltd., by David W. Donohoe, Esq.; and

Whereas Mr. Colgur called Mr. Kenneth Donald Dicken, president of Dicken Bus Lines Ltd.; and Mr. Robbins called Mr. Stanley Lloyd Weber, vice-president of Koltran Coach Lines Ltd., and Mr. Donald Alexander James Turner, purchasing agent with Crows Nest Resources Ltd.; and

Whereas the Motor Carrier Commission decided to hold the review hearing because of the serious allegations contained in one of Mr. Colgur's telegrams sent to the Commission on December 23, 1983, which read as follows:

Further to our telegram of today's (sic) date and further to our letter of objection dated December 5, 1983 we can now confirm that Koltran (sic) Coach Lines Ltd. is not hiring local Fernie area people to provide service nor are they purchasing any equipment, maintenance of supplies locally. Their obvious intention is to put as many local people out of work as possible. In addition they will have a severe negative impact on local business. We again ask that this matter be reviewed as soon as possible and that a hearing be held before any further damage is done to the economy of the local areas.

Mr. Colgur's opening address to the Commission set out the concerns of Dicken Bus Lines Ltd. (hereinafter referred to as Dicken). He told the Commission that Dicken has been operating in the East Kootenay area as a reliable employer for thirty-five (35) years, and that it has deep roots in the community and area. He went on to say that the area has been well served by Dicken, which over the years has met the public need.

Mr. Colgur, on the one hand, defined the issues for the Commission's consideration as follows:

- (a) Dicken was not dealt with fairly by Crows Nest Resources Ltd.;
- (b) Dicken is meeting all of the public need in the area, and thus there is no need for another carrier in the area; that is, there is no need for the licensing of Koltran Coach Lines Ltd.; and
- (c) the granting of the second licence (that is, to Koltran) will cause economic harm in the area.

Mr. Robbins, on the other hand, defined the issues as:

- (a) Did the Commission err in granting Koltran Coach Lines Ltd. (hereinafter referred to as Koltran) public motor carrier authority; and
- (b) the Commission, on this application, was dealing with a contractual industrial carrier which sought and obtained motor carrier licences from the Motor Carrier Commission to provide bus transportation for Crows Nest Resources Ltd., after being the successful bidder on an open competition, which is not the normal motor carrier licensing matter, where public need and necessity, and other matters, are considered before licences are granted.

Counsel for the parties had filed on behalf of their respective clients books of documents. The Commission accepted the following exhibits:

- (a) Exhibit No. 1 — Book of documents filed by Mr. Colgur;
- (b) Exhibit No. 2 — Book of documents filed by Mr. Robbins; and
- (c) Exhibit No. 3 — Letter from Crows Nest Resources Ltd., dated January 6, 1984, filed by Mr. Robbins.

The Commission has considered all of the evidence and material before it, from which it makes the following findings of fact:

- (a) that Cardinal Coach Lines Ltd. (Koltran) was the lowest of the five bidders that submitted quotations to Crows Nest Resources Ltd. to provide motor coach bus transportation for mine workers to and from Line Creek Coal Mine;
- (b) that Dicken was the highest bidder;
- (c) that the tendering process was fair and equitable to all parties, even though the Invitation to Quote was poorly drafted;
- (d) that Crows Nest Resources Ltd.'s manner of announcing the successful bidder was a marked departure from an acceptable method that should be used by such a large company;
- (e) that Koltran Coach Lines Ltd. is a British Columbia incorporated company, duly incorporated on December 2, 1983;
- (f) that Koltran is a wholly-owned subsidiary of Cardinal Coach Lines Ltd., which was formed to service the Crows Nest Resources Ltd.'s Line Creek Mine Contract on behalf of the parent, Cardinal Coach Lines Ltd.;
- (g) that Koltran was granted the Crows Nest Contract because it was the lowest bidder and met Crows Nest's criteria;
- (h) that there was no evidence either produced or given to the Motor Carrier Commission to show:
 - (i) that Dicken was treated unfairly by Crows Nest; or
 - (ii) that the granting of the second licence to Koltran will cause economic harm in the East Kootenay area;
- (i) that Koltran, on January 1, 1984, commenced the Line Creek Mine bus service, which Crows Nest Resources Ltd. attests is satisfactory;
- (j) that Koltran has hired several employees from the Fernie area, and has rented a building from Shell Canada, to park and maintain the buses that are being used on the Line Creek Mine contract;
- (k) that Koltran also rented a building in Frank, Alberta, to park and maintain buses for the three daily routes from Alberta to the mine;
- (l) that Koltran purchases 75% of its fuel in British Columbia, and 25% in Alberta;
- (m) that Koltran has hired sixteen (16) employees to perform the Line Creek Mine Contract, three (3) of whom were former Dicken employees;
- (n) that of the sixteen employees hired by Koltran, nine (9) are residents of Fernie, Elkford, or Sparwood; one (1) is now a resident of Fernie, who came from Edson, Alberta, but who used to live in Fernie; the remaining (5) live in Alberta, and were hired to serve the three daily routes to the Mine, that originate in Alberta;
- (o) that the loss of the Crows Nest Resources Ltd.'s contract to Dicken represents a loss of 37% of its business;
- (p) that even with the loss of the business, Dicken will still operate on a profit, and will not go out of business;
- (q) that Dicken is a well-run community minded transportation company in the Kootenays; and
- (r) that Crows Nest Resources Ltd. placed the Line Creek Mine busing contract out for tender because of its concerns about its competitiveness in order to survive, while at the same time, attempting to

MOTOR CARRIER ACT

make more secure the jobs of approximately six hundred (600) employees, which, if lost, would only aggravate the situation in the Elk Valley Region where over the past two years, there have been hundreds of coal mine job layoffs, which has been devastating to the local community.

The Commission, after having fully considered this matter, is satisfied that its decision made on December 15, 1983, concerning this application, should be confirmed, and that the objector, Dicken Bus Lines Ltd., has failed to prove its allegation.

The Motor Carrier Commission orders that its decision on Application No. 1865/83, made on December 20, 1983, be and it is hereby confirmed.

Approved by:

GERARD M. MORRIS
Acting Chairman
A. W. BASILE,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

18-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2107/82 of Gary Fidyk D/B/A Gary Systems.

Before: GERARD M. MORRIS, *Acting Chairman*, and IAN W. CRAIG, *Commissioner*

Dated the 23rd day of February 1984.

ORDER

Whereas the Motor Carrier Commission, after carefully considering the application of Gary Fidyk d/b/a Gary Systems, published as No. 2107/82, for one new Limited Freight Vehicle Licence, granted the application on June 8, 1983, subject to compliance by the applicant with the usual mandatory pre-licensing requirements, including filing satisfactory proof of cargo insurance and C.O.D. Bond coverage; and

Whereas the carrier was informed by letter dated June 10, 1983, of the Commission's decision, and at the same time advised of the need to submit proof of cargo insurance and C.O.D. Bond coverage; and

Whereas an additional letter dated September 12, 1983, was sent to the applicant concerning this requirement; and

Whereas the applicant was advised by registered letter dated January 4, 1984, that failure to file cargo insurance or a waiver before January 20, 1984, might result in his licence authority being revoked; and

Whereas to this date, proof of cargo insurance has not been filed with the Commission, as required;

The Motor Carrier Commission orders, therefore, that its previous decision granting the application of Gary Fidyk d/b/a Gary Systems, published as No. 2107/82, be and it is hereby rescinded, and any rights or privileges arising therefrom be and they are hereby cancelled.

Approved by:

GERARD M. MORRIS
Acting Chairman
IAN W. CRAIG,
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK,
Secretary to the Commission